A corollary to the rule against comment is involved in the recent and much discussed case of *Caminetti, et al.* v. *United States,* 37 Sup. Ct. 192, decided Jan. 15, 1917. In that case the defendant took the stand and testified as to events up to a certain point, but he stopped short there and refused to testify further. This failure to testify to subsequent events was put before the jury by an instruction from the court as evidence for their consideration. It was contended on behalf of the defendant that this was error, under the federal statute (Act of March 16, 1878, 20 Stat. 30, c. 37) which had been held to prohibit comment on a failure to testify. *Wilson* v. *United States,* 149 U. S. 60. The Supreme Court of the United States held, affirming the Circuit Court of Appeals below, that when the defendant took the stand he voluntarily relinquished his privilege of silence together with the immunity from comment thereon, and could not stop his testimony at any point he saw fit "without subjecting his silence to the inferences to be naturally drawn from it." The same point had previously been decided the other way by two United States Circuit Courts of Appeals. *Balliet* v. *United States,* 129 Fed. 689, 64 C. C. A. 201; *Myrick* v. *United States,* 219 Fed. 1, 134 C. C. A. 619. The decision in the *Diggs* case is in harmony with the generally accepted view. WIGMORE, EVID., §2273(4), and note.

E. R. S.

THE SCOPE OF THE MANN ACT.—As was to be expected in view of the well-settled doctrine of the Supreme Court that the constitutional grant of power to regulate interstate commerce includes power of control over transportation of persons as well as property, it was held in *Hoke* v. *United States,* 227 U. S. 308, 57 L. Ed. 523, 33 Sup. Ct. 281, that the WHITE SLAVE TRAFFIC ACT of 1910 (36 Stat. 825), usually referred to as the MANN ACT, was constitutional. State legislation covering the same ground, it has been held, has been displaced. *State* v. *Harper,* 48 Mont. 456, 138 Pac. 495.

Wide differences as to the interpretation of the ACT early arose. That commercialized vice was intended to be reached was indicated by the name given to the ACT by Congress itself and by the report accompanying the introduction of the ACT into the House of Representatives. This view seems to have been adopted by Judge POLLOCK in the United States District Court in an unreported case. See 12 MICH. L. REV. 156. The terms of the ACT, however, quite clearly do not so limit its operation. By §2 it is provided "That any person who shall knowingly transport or cause to be transported * * * in interstate or foreign commerce * * * any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose * * * shall be deemed guilty of a felony," etc. In three cases attracting wide attention it was held that the offense was committed by transportation of a woman in interstate commerce simply for the gratification of personal desire and pleasure, no phase of commercialized vice being present. *Johnson* v. *United States,* 215 Fed. 679, 131 C. C. A. 613; *Diggs* v. *United States,* and *Caminetti* v. *United States,* 220 Fed. 545. The latter cases have been recently affirmed by the Supreme Court, the Chief Justice and Justices

McKENNA and CLARKE, however, dissenting. *Caminetti, et al.* v. *United States,* 37 Sup. Ct. 192.

Speaking of the interpretation of written law BLACKSTONE says, "As to the *effects* and *consequence,* the rule is, that where words bear either none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them. Therefore the Bolognian law, mentioned by PUFFENDORF, which enacted 'that whoever drew blood in the streets should be punished with the utmost severity,' was held after long debate not to extend to the surgeon, who opened the vein of a person that fell down in the street with a fit." 1 BLACK. COMM. *60. "The same common sense accepts the ruling, cited by PLOWDEN, that the statute of First Edward II, which enacts that a prisoner who breaks prison shall be guilty of felony, does not extend to a prisoner who breaks out when the prison is on fire; 'for he is not to be hanged because he would not stay to be burnt.' And we think that a like common sense will sanction the ruling we make, that the Act of Congress which punishes the obstruction or retarding of the passage of the mail, or of its carrier, does not apply to a case of temporary detention of the mail caused by the arrest of the carrier upon an indictment for murder." *United States* v. *Kirby,* 7 Wall. 482, 486. And in *Church of The Holy Trinity* v. *United States,* 143 U. S. 457, it was held that the importation by the accused of an alien under contract to serve as rector of a church was not punishable under a statute making it an offense to import aliens "under contract or agreement to perform labor in the United States," it being conceded that the act upon which the prosecution was based was clearly included within the language of the statute. The dissenting Justices in the principal case, being of opinion both from external and internal evidences that the legislative purpose was to cover only commercialized vice, sought to apply the principle of these holdings. The complete blamelessness of the physician, of the officer making the arrest of the mail carrier, and of the church, in the instances referred to would seem to make out a situation differing vitally from that of the defendant who has transported a woman in interstate commerce for the purpose of fornication or adultery.

To the argument that under the interpretation of the ACT adopted by the Supreme Court opportunities for blackmail may be vastly increased, it may perhaps be suggested that even so the wholly innocent traveller has nothing to fear. If a man in his peregrinations chooses to provide himself with female society to while away the tedious hours of travel it is not entirely unreasonable to expect him to assume such risks, even granting that relations between him and his companion may never actually have passed beyond the purely platonic. R. W. A.

THE LIABILITY OF THE INITIAL CARRIER AFTER THE FINAL CARRIER BECOMES A WAREHOUSEMAN.—In England and a few of the United States the rule of *Muschamp* v. *Lancaster, etc., Ry. Co.,* 8 Mees. & W. 421, is followed, and a carrier which receives goods for transportation to a point beyond its terminus presumably assumes liability for through transportation. In most